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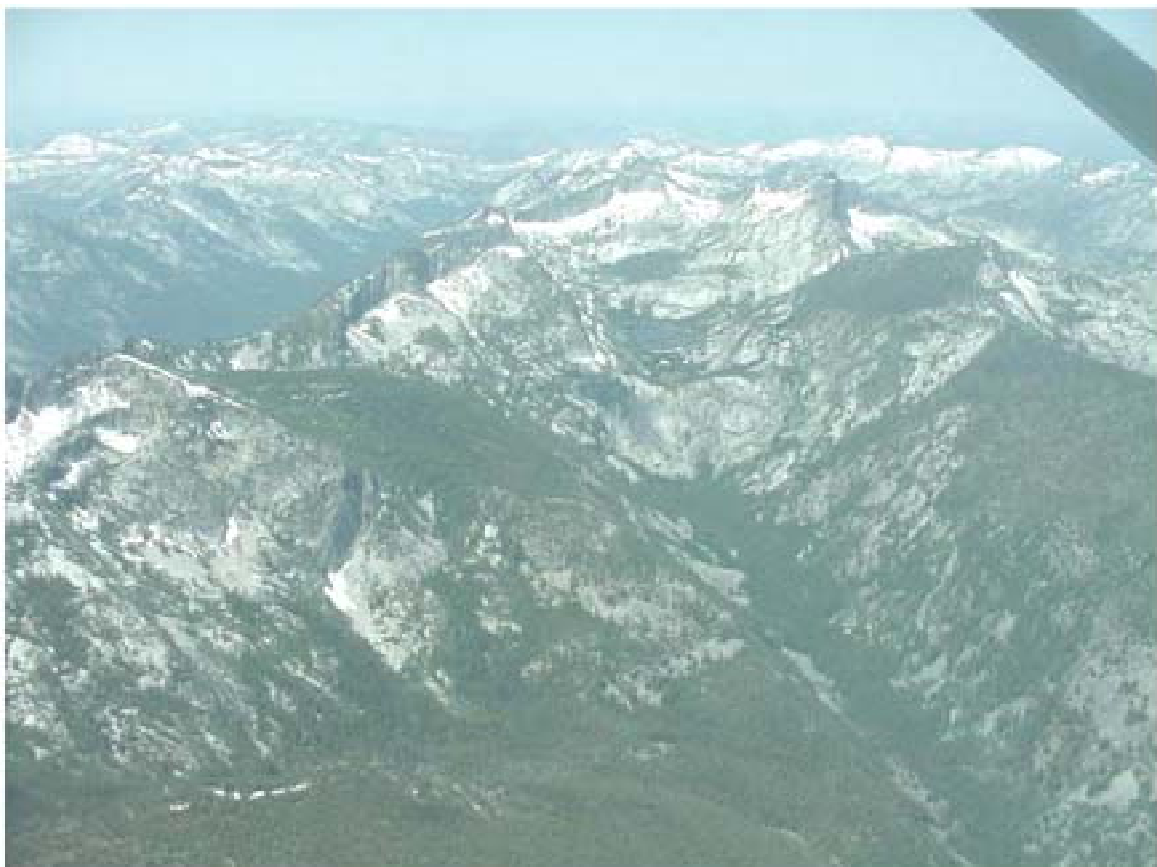
Forest Service

Bitterroot National Forest

June 2003

# CANYON LAKE DAM AND WYANT LAKE DAM PROJECT

## Record of Decision



Canyon Lake Dam

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# **Canyon Lake Dam and Wyant Lake Dam Project**

## ***Record of Decision***

### **I. SUMMARY OF DECISION**

After careful consideration of the potential impacts of the alternatives analyzed in the Canyon Lake Dam and Wyant Lake Dam Project Final Environmental Impact Statement (FEIS, issued on May 30, 2003), I have selected Alternative 2. With this decision I am authorizing Canyon Creek Irrigation District sufficient helicopter access to their facilities at Canyon and Wyant Lake Dams to complete their proposed repair and breach work. I am also prescribing specific conditions to be met during the irrigation district's access, repair, maintenance, and breach activities within the wilderness and National Forest boundaries. These conditions will provide reasonable protections of the National Forest. My decision is described in further detail starting on page 10. My rationale for reaching this decision begins on page 14.

I have requested, and received, a determination from the Chief of the Forest Service that an emergency exists. He has approved an emergency exemption from stay during appeal for part of this decision<sup>1</sup>. Only the part of this decision associated with Canyon Creek Irrigation District's engineered partial breach of Canyon Lake Dam this summer is included in this approval. Further discussion of implementation, appeal rights, and this exemption from stay during appeal can be found on page 18.

### **II. PROJECT BACKGROUND**

Canyon and Wyant Lake Dams are owned and operated by Canyon Creek Irrigation District (CCID). CCID has requested authorization for motorized access to their easements at Canyon Lake and Wyant Lake Dams in the Selway-Bitterroot Wilderness.

Canyon Creek and Wyant Lake Dams are located approximately 8 miles west of Hamilton, Montana. Both dams lie just inside the Selway-Bitterroot Wilderness boundary at the head of Canyon Creek. Canyon Lake Dam is approximately 5 miles from the Canyon Creek trailhead. Wyant Lake Dam is located less than one mile upstream of Canyon Lake Dam (maps pages 3 and 4).

Public access to Canyon Lake is currently by Trail #525, which ascends over 2400 feet in 5 miles to the cirque where Canyon Lake is located. This steep trail, which crosses over boulder talus below the lake, has been administered for non-motorized access since the establishment of the Selway-Bitterroot Wilderness in 1964. This trail is not recommended for stock use. Reconstruction would be needed to make it safe for stock. There is no maintained trail to Wyant Lake.

The irrigation district is authorized to maintain and operate these dams under valid pre-Forest easements recognized under the Act of 1866 and the Act of 1891 granted by the Secretary of the General Land Office/ Department of Interior<sup>2</sup>. Both easements are entirely within the

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<sup>1</sup> Project file (PF) section O

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<sup>2</sup> Project file 1.1

National Forest boundary as well as within the Selway Bitterroot Wilderness.

Both Canyon Lake Dam and Wyant Lake Dam are classified as high hazard dams. This classification is based on the potential consequences if the structure(s) fails, based on risks to downstream life and property. Failure of either structure would "likely result in loss of human life or excessive economic loss" (FSM 7511.2). Because of the progressive deterioration of both dams, there is an urgent need to complete the work in an efficient

manner as soon as possible to ensure protection of wilderness resources and public safety.

As the dam owner, CCID is responsible for repair and maintenance of Canyon and Wyant Lake dams. Both dams currently have structural and design deficiencies that the CCID must correct to comply with the dam safety laws and regulations. Please refer to the text box below for a summary of the condition of Canyon and Wyant Lake dams and CCID's proposed work on their dams.

### **Summary: Condition of the Dams and CCID's Plans**

Appendix A of the FEIS provides a more detailed discussion of the current condition of the two dams as well as CCID's proposed work on the dams. This information is summarized here as it provides additional context for the federal proposal and decision.

#### **Condition of the dams**

Canyon Lake and Wyant Lake Dams are owned and operated by CCID, and CCID is responsible for funding and completing any actual work on the dams. The dams are classified as high hazard. They have existing structural deficiencies that could lead to dam failure. Failure of these dams could result in loss of life and property as well as downstream damage to water quality, fish and riparian habitats, and other National Forest and wilderness values.

Canyon Lake Dam has five known structural deficiencies: 1) an inadequate spillway capacity, 2) an uneven dam crest, 3) a partially collapsed outlet works, 4) unsuitable embankment material subject to internal erosion or liquefaction during full reservoir levels, and 5) long-term instability of the dam resulting from the existing embankment geometry, which is a narrow, steep cross section.

Wyant Lake Dam is located upstream from Canyon Dam. The deteriorated condition of the dam has warranted restrictions on storage capacity, and the outlet works gate has recently remained in the open position. The integrity of the structure has been compromised because of cracking and slumping of the dam crest caused by rotting crib logs and erosion. This deterioration on Wyant Lake Dam is progressively getting worse. A dam failure of Wyant Lake Dam could then lead to a second failure at Canyon Lake Dam in its current state.

#### **CCID's options and planned activities**

CCID has considered a number of options for rehabilitating their two dams. These are described in more detail in the FEIS and FEIS Appendix A as options A, B, C, and D. Option D was new for the FEIS; it is CCID's latest plan. These options include the following:

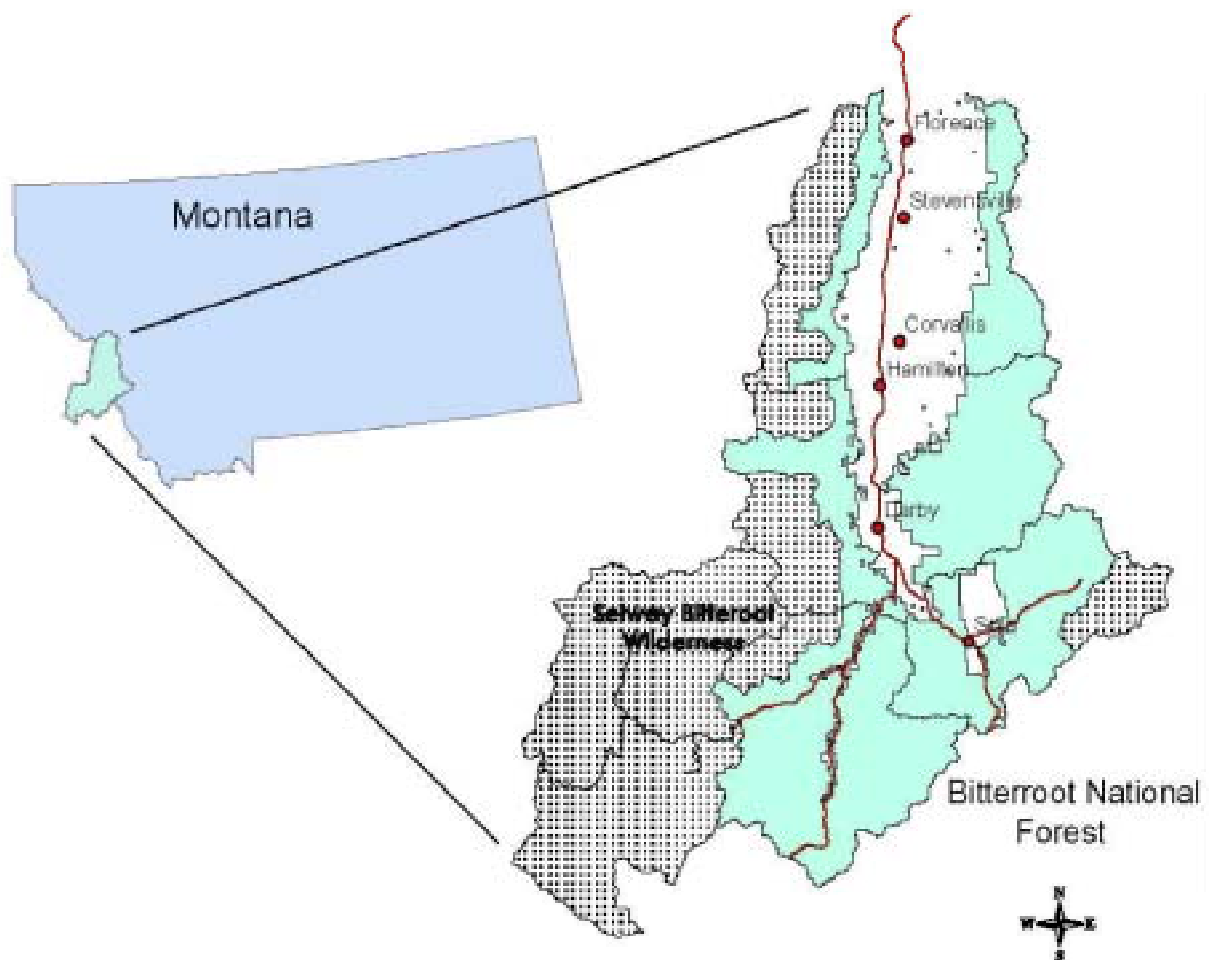
*All options include breaching Wyant Lake Dam.*

Option A, Repair Critical Deficiencies of Canyon Lake Dam.

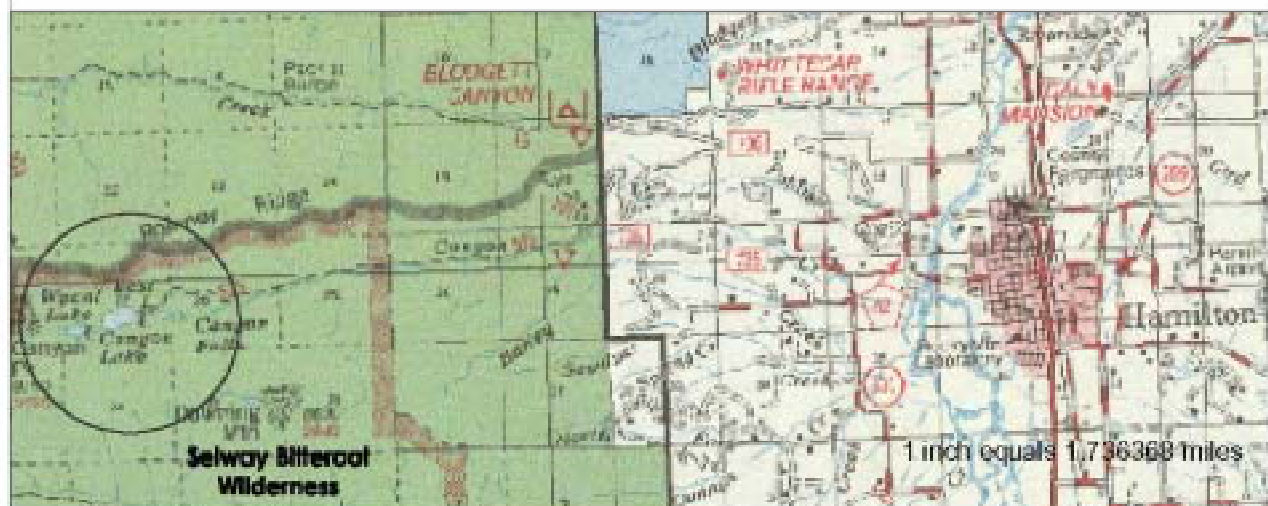
Option B, Major Rehabilitation of Canyon Lake Dam.

Option C, Breach of Canyon Lake Dam.

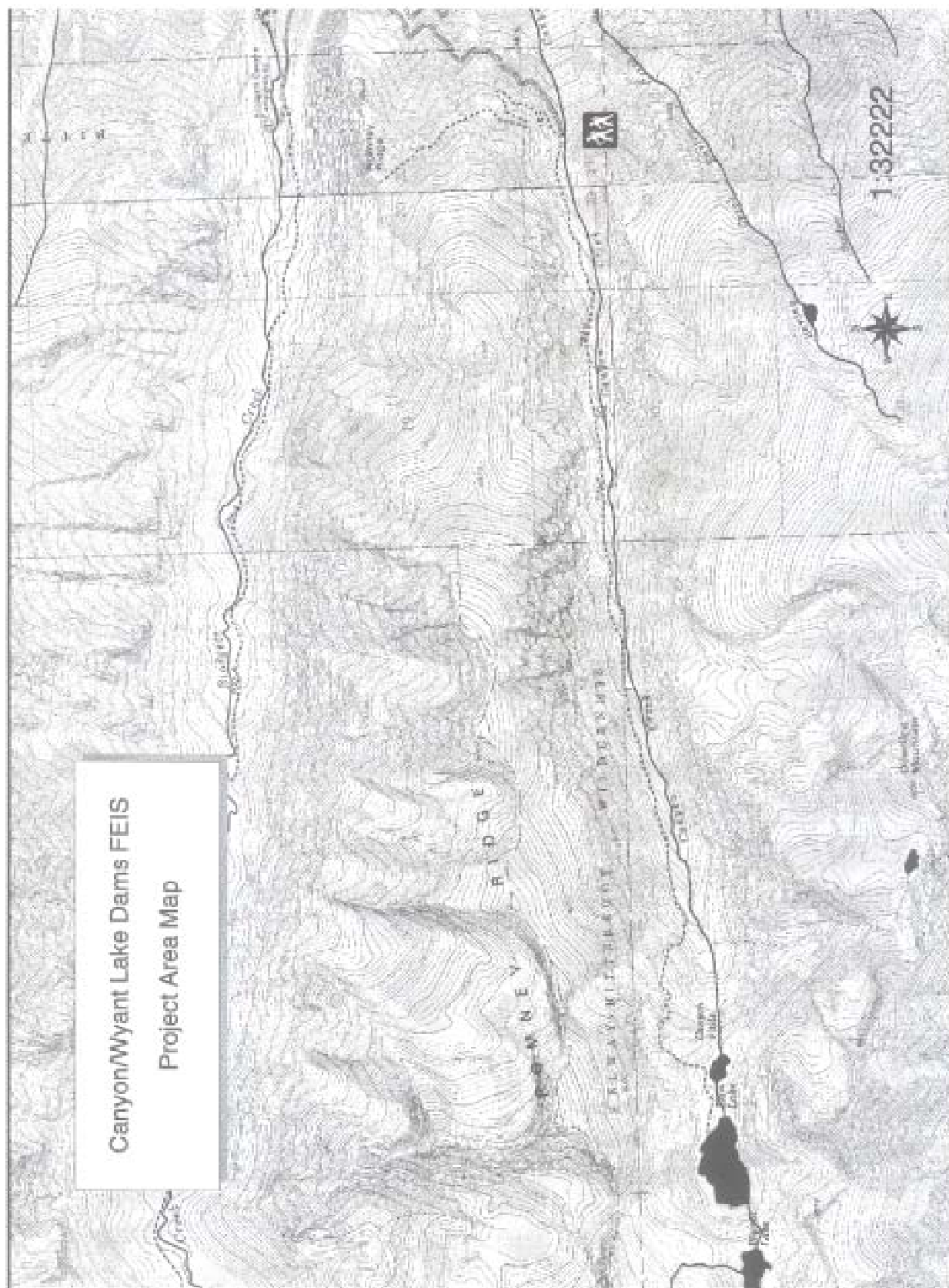
Option D, Partial Breach of Canyon Lake Dam in 2003 (Phase I), Major Rehabilitation of Canyon Lake Dam in 2004 (Phase II).



**Canyon/Wyant Lake Dams  
Vicinity Map**



**Canyon Lake Dam and Wyant Lake Dam Project**



### III. PURPOSE OF AND NEED FOR ACTION

The purpose of this proposal is to authorize CCID adequate access<sup>3</sup> to their facilities and to prescribe terms and conditions related to this access and their subsequent work on the facilities as necessary to protect the National Forest.

The Forest Service is required by both the Wilderness Act<sup>4</sup> and the Alaska National Interest Lands Conservation Act<sup>5</sup> (ANILCA) to authorize access to valid occupancies such as these easements held by the CCID. Therefore, the authorization of adequate access to CCID for the valid use of its easements is non-discretionary.

In this case, the Wilderness Act also requires the Forest Service to "prescribe the routes of travel to and from the surrounded occupancies, the mode of travel, and other conditions reasonably necessary to preserve the National Forest Wilderness". As such, the Forest Service has the responsibility to set reasonable terms and conditions on that access as necessary for protection of the National Forest.<sup>6</sup>

These acts prescribe a narrow scope to the Agency's discretion, balanced between requirements to allow for the proponent's rights

and responsibilities pertaining to the use of their easement and the Agency's responsibility to provide protections for National Forest and wilderness values.

A number of factors help define and narrow the Agency's discretion in this case, and therefore they also define the scope and purpose of this proposal and are discussed further below.

Both Canyon and Wyant Dams have structural and design deficiencies that the CCID must correct to comply with the requirements of dam safety laws and regulations. The nature of known deficiencies, the downstream risks, and uncertainties associated with the internal structure and integrity of these older dams increase the urgency that known deficiencies be corrected as soon as possible. See the text box on page 2 for further discussion of known deficiencies in Canyon and Wyant Lake Dams.

At the end of each field season it is important that any corrective measures, including erosion control and armoring of the embankment, be completed to enable the dams to withstand the following winter conditions and spring runoff or precipitation events.

CCID has requested access to their Canyon Lake and Wyant Lake facilities so they may perform work necessary to meet the requirements of federal dam safety standards. They intend to permanently breach the Wyant Lake dam. CCID has decided to partially breach its Canyon Lake facility in 2003 and reconstruct the facility in 2004.<sup>7</sup> Both courses of action could meet CCID's responsibilities under dam safety laws and regulations.

Further discussion of the purpose and need for action is described in the EIS on pages 1-2 through 1-4.

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<sup>3</sup> Defined at FSM 2320.5.15 as, "The combination of routes and modes of travel that the Forest Service has determined will have the least-lasting impact on the wilderness resource and, at the same time, will serve the reasonable purposes for which State or private land or right is held or used."

<sup>4</sup> Wilderness Act, Sec. 5(b); codified at 16 U.S.C § 1134; and the implementing regulations at 36 CFR 293.13.

<sup>5</sup> ANILCA, Pub. L. 96-487, title XIII, Sec. 1323; codified at U.S.C. § 3210

<sup>6</sup> Concomitantly, the Forest Service also has authority under its general grant from Congress to protect the National Forests (16 U.S.C. § 551) to regulate reasonably the easement in order to achieve the purposes for which the national forests were reserved, and the Selway-Bitterroot Wilderness was designated.

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<sup>7</sup> See the text box on page 2, or Appendix A of the FEIS, for a summary of CCID's proposed work. The decision to repair or breach the dams is solely within the discretion of CCID. The Forest Service can only require that the facilities be consistent with safety standards.

## IV. PROPOSED ACTION

The proposed action was to authorize the Canyon Creek Irrigation District access to their facilities with the terms and conditions described in further detail as Alternative 2 (page 9 and page 10). The Forest Service would authorize sufficient helicopter access to allow for the work to be done at Canyon and Wyant Lake Dams.

The Forest Service also proposed to require conditions be met during the irrigation district's repair, maintenance, and breach activities within the wilderness and National Forest boundaries. These conditions address resource concerns such as sedimentation, safety and wilderness. They are listed, beginning on page 10 as mitigation measures, terms and conditions and permits required for Alternative 2.

## V. PUBLIC INVOLVEMENT

Notice of intent to prepare an environmental impact statement was listed in the Federal Register on June 18, 2001. A public scoping letter describing the proposal was mailed to approximately 119 individuals, organizations and agencies on June 12, 2001. A legal advertisement for scoping was placed in the Ravalli Republic which was published June 18, 2001. Ads also appeared in the Bitterroot Star and the Missoulian newspapers.

The DEIS was made available for public review after a notice of availability was published in the Federal Register on January 17, 2003. A notice and request for comments was also mailed to all individuals on the mailing list and posted on the BNF internet web page. A request for comment on the DEIS was posted in the Ravalli Republic newsletter on January 9, 2003. 25 letters, or phone calls were received as comment on the DEIS. Chapter 6 of the FEIS contains the letters and my responses. These comments were used to supplement, improve

or modify the analysis or to make factual corrections.

I sent a letter notifying the public of my intent to pursue an emergency exemption from stay during appeal on March 19, 2003 and an article appeared in the Ravalli Republic. I received three responses.

The FEIS was released for public review on May 30, 2003 and an article appeared in the Ravalli Republic. No additional comments were received.

The Flathead Culture Committee, who represent the Confederated Salish and Kootenai Tribes, were consulted.

The Fish and Wildlife Service has been contacted concerning Threatened and Endangered species. The Montana Natural Heritage Program was contacted concerning species of special concern.

## VI. ISSUES

Key issues for the Canyon Lake Dam and Wyant Lake Dam Project were identified through public and internal scoping (refer to project record PF 2.1). The following issues were determined to be key and within the scope of the project decision.

### KEY ISSUES:

- Some groups questioned whether helicopter access is consistent with management directions for wilderness. Other people supported helicopter use.
- Some groups wrote that: "where a choice must be made between wilderness values and any other activity, preserving the wilderness resource is the overriding value."



## **VII. ALTERNATIVES CONSIDERED BUT NOT GIVEN DETAILED STUDY**

A number of alternatives, alternative features, and mitigation measures were considered but not included for detailed study. These are summarized below, and described in more detail in the FEIS starting on page 2-12.

1. Mechanized transport would not be authorized. All equipment, materials, supplies and people would be transported with stock. The only motorized types of equipment that would be authorized would be those that can be transported with stock (compactors, generators, pumps).

Financial costs to the CCID in this alternative would likely be unreasonable and timing constraints may cause existing grants and conservation project loans to be unavailable. The risks of leaving work unfinished over multiple winters would be that the dams could be in an unsafe condition during the following spring runoff and snowmelt season. Due to the deteriorated condition of the dams, this alternative poses unacceptable risk to public safety and the environment.

2. No mechanized transport or motorized equipment would be authorized. All equipment, materials, supplies and people would be transported with stock.

Financial costs to the CCID in this alternative would likely be unreasonable and timing constraints may cause existing grants and conservation project loans to be unavailable. The risks of leaving work unfinished over multiple winters would be that the dams could be in an unsafe condition during the following spring runoff and snowmelt season. Due to the deteriorated condition of the dam, this alternative poses unacceptable risk to public safety and the environment.

3. Rehabilitation of Canyon Dam Using Multi-Year Implementation Schedule.

Consideration was given to conditioning the project to proceed over a number of years with minimal tools and non-mechanized means. Several factors influence the feasibility of this approach. A major reconstruction of the dam embankment, which will likely involve removing the rock shell if an impermeable liner is installed, would present critical timing and dam safety issues. Removing the rock in the proposed breach area versus removing the rock on the entire upstream embankment involves two significantly different magnitudes of work effort. Not only must the rock be temporarily removed, but also the bedding material, the liner, and then the protective cover must be installed over the liner to protect it - especially through the following winter and spring runoff conditions. This larger scope of work may present the Canyon Creek Irrigation District and their engineering representatives with liability issues that they would be unwilling to accept in regards to a long-term construction project lasting several years.

The major rehabilitation of the dam includes other factors that the dam owner should consider, such as: 1) contractor qualifications, past performance and ability to complete the work within the required timeframe, 2) costs and reasonableness of mobilizing equipment over a period of several years, rather than a single year, 3) utilization of construction methods which meet today's quality control requirements.

Quality of construction is also critical to dam safety. Deficiencies in materials or poor construction practices can affect the long-term performance of dams. Therefore, it is important to utilize construction methods that comply with today's dam safety standards and construction quality control requirements, such as materials

processing (for filter rock), compaction, grouting and pipe welding standards<sup>8</sup>.

#### 4. Rehabilitating Wyant Lake Dam

The decision to rehabilitate Wyant Lake dam is not a Forest Service decision.

5. Building a 5-foot wide trail bed to accommodate mechanized transport.

This alternative would have permanent impacts on the wilderness resource, would greatly increase the potential for motorized trespass in the wilderness, would add several months to the work, and increase the cost of the project.

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<sup>8</sup> Project file L-17, Federal Guidelines for Dam Safety

## VIII. ALTERNATIVES CONSIDERED IN DETAIL

The following alternatives were considered in the EIS.

### Alternative 1 (No Action)

Under this alternative, CCID would not be authorized access to repair their facilities. Similarly, no additional terms or conditions would be placed on their use of this easement. The Forest Service is required by both the Wilderness Act and the Alaska National Interest Lands Conservation Act (ANILCA) to authorize access to valid occupancies such as these easements held by the CCID. Therefore, selection of this alternative is beyond Forest Service discretion.

### Alternative 2

This is the alternative I have selected for implementation. Please refer to the 'Summary of Decision' and the 'Decision' sections for specific details of this alternative (pages 1 and 10 respectively).

### Alternative 3

Access would be modified as compared to Alternative 2. Helicopter transport would be authorized only for heavy equipment or materials too heavy or awkward to transport safely with stock. All other equipment, materials and supplies would be transported with stock. Most workers would hike or ride stock to the work site.

In 2003, trail work would be completed to accommodate stock access to Canyon and Wyant Dams. Canyon trail and trailhead would be reconstructed to safely accommodate this increased use. A new trail would be constructed from Canyon to Wyant Dam.

In late 2003, and in 2004 or 2005, the CCID would be authorized to use the fewest number

of helicopter flights necessary to transport equipment and materials too heavy for stock. CCID would then be authorized to transport the remaining materials by stock on these trails. In addition, in order to protect National Forest values, the terms, conditions, mitigation measures, and monitoring specified for Alternative 2 starting on page 10 would be required during access and work periods authorized under this alternative. In addition, the following conditions would also be required:

**Table 1 - Terms and Conditions (CCID) Alt. 3**

Measure
<b>Trail Reconstruction and Construction</b>
28. If the Canyon Trail is reconstructed, covering the previous trail tread with slash to obstruct access at either end of the trail will be done to discourage use. Water bars will be installed as necessary to prevent further erosion.
29. If a new trail is constructed to access Wyant Lake from Canyon Lake the amount of tread construction should be minimized in order to save as much native vegetation as possible.
30. Weed prevention practices for trail construction will be followed. (PF 2.2)
32. CCID would be responsible for contracting and cost of trail construction, reconstruction and maintenance as necessary for project work.

**Monitoring specific to Alternative 3:** A Forest Service trails specialist will provide additional on-site monitoring during construction and reconstruction of trails to ensure wilderness and resource protection standards are met within the access corridor. The trails specialist will use specifications in all construction / reconstruction plans and mitigation measures to ensure work is meeting the mitigation and protection.

Annual follow-up inspections of the trail, for a period up to 5 years, will provide monitoring of the effectiveness of the trail repair work for safety and engineering standards, wilderness and recreation objectives, trail rehabilitation and drainage improvements.

## IX. DECISION

As the Responsible Official for this project, I have selected Alternative 2 as described here and in the FEIS. With this decision I am authorizing Canyon Creek Irrigation District sufficient helicopter access to their facilities at Canyon and Wyant Lake Dams to complete their proposed repair and breach work.

I am also prescribing the following specific conditions to be met during the irrigation district's access, repair, maintenance, and breach activities within the wilderness and National Forest boundaries. These conditions will provide reasonable protections for the National Forest.

**The following items are CCID's Responsibility:**

**Table 2 - Terms and Conditions (CCID)**

Measure
<b>Dam Safety</b>
1. A flood routing study will be completed on Canyon Dam to ensure that the partial breach or full breach, which will function as the principal spillway, will be sized to safely pass the required inflow design flood without overtopping the dam. The flood routing study for repairing Canyon Dam would be required to size the existing Canyon Dam spillway to safely accommodate the required design flood. (The required inflow design flood for Canyon Dam is the Probable Maximum Flood because of the dam's high hazard classification). A second flood routing study will also be required to ensure that Canyon Dam can safely route a Wyant Dam failure without overtopping Canyon.
2. At the end of each field season, it is important that any corrective measures, including erosion control and armoring of the embankment, be completed to the extent that the dam can withstand the following winter conditions and spring runoff or precipitation events. Project work plans will include some room for contingencies because of the limited field season in which to accomplish the work.
3. The dam owners are responsible to provide their own radio or telephone communications.
4. During the construction period of the partial breach with minimal mechanized tools, CCID and their engineering representative will have an emergency plan in place to deal with flooding from a major storm event. Components of the plan will include the availability of onsite sand bags to armor the partially constructed breach, the backup availability of flying in heavy equipment, and establishing safety and emergency procedures to minimize risk to construction crew and downstream residents.
<b>Wilderness Resource and Recreation</b>
5. Airlift flights in the valley will be routed to minimize noise near residences. Where feasible and safe to do so, helicopters will avoid flying over mountain goats. When possible helicopters will avoid flying directly over trails.
6. Quiet low velocity blasting such as a boulder buster will be used as much as reasonable for rock excavation and quarrying.
7. All solid wastes/refuse will be properly stored.
8. All solid wastes will be removed from National Forest lands, except for burnable kitchen wastes.
9. If mechanized transport is not needed for heavy equipment, latrines will be located 200' from water and filled in between and after Phases 1 & 2. If mechanized transport is needed for heavy equipment, all human waste will be removed from National Forest lands.
10. Latrines will be used for human wastes and kitchen wastewater.
11. All fuel shall be stored in an approved spill containment structure that shall be of sufficient capacity to contain all the fuel stored in the structure. The basic containment structure shall include an HDPE-lined basin and berm to contain spills or leaks. Fuel will be stored more than 100 feet from the surface water. All

Measure
hazardous material will be removed from the site by the end of the operating season. A hazardous spill kit will be on site.
12. Soil borrow areas, rock quarry for riprap, staging and stockpiling areas, fuel storage and containment area, and camping site for Canyon Lake Dam are shown on the "Canyon Lake Dam Site Plan" in Appendix D of the FEIS.
13. Public notice of closures will be done by the CCID.
<b>Water and Fisheries</b>
14. If possible, all work will be accomplished outside of the standing water. This is to be accomplished by the use of cofferdams around the work area on Canyon and Wyant dams. Pumps will be used to control seepage through cofferdams. Seepage will be pumped into the reservoir so sediments settle.
15. Seepage and grout wash water will be pumped onto the reservoir shoreline to reduce suspended sediments.
16. Water that flows into the reservoir during construction will be pumped over the dam and onto sites that can handle the water without eroding (consistent with mitigation #10 of irrigation district's loan application, May 2000).
17. Weed free straw bales, silt fence or wattles, to capture sediment from construction operations shall be installed below disturbed areas. Three or more structures in succession may be required in cases where sediment is entering or will enter Canyon Creek.
18. Disturbed areas, including soil borrow areas, as much as is practical, shall be confined to within the high water mark of the existing lake. Borrowed rock will be from the reservoir or from historical quarries near the high water mark. If suitable, these areas shall be rehabilitated, or re-contoured, at the end of the project. These areas shall be confined to the least amount of surface area. These areas shall have a Forest Service approved reclamation plan and be reclaimed to those specifications by the end of the project.
19. In-channel sediment traps would be required below both dams during construction. At the Wyant breach site sediment traps could be located downstream in a location that is not dominated by boulders, but needs to be above the spawning area upstream of Canyon Lake. Forest fishery or hydrology personnel would help locate and design the traps.
20. Breach options at Canyon Lake would include constructing a boulder cascade or a set of small falls and plunge pools (similar to Rosgen A2 channel type) to reduce velocity and energy between the breach and the wet meadow area below the dam. A Forest fisheries biologist and hydrologist will be notified when the stream re-construction phase of the project would begin so they have the opportunity to be onsite if they determine it is necessary.
31. Any blasting (such as might be required for rock crushing operations), will meet the requirements in the Programmatic Biological Assessment for Trail Maintenance (Western Montana Bull Trout Level I Team 1999 – PF 2.3)
<b>Heritage Resource</b>
21. A cultural site in the Canyon Lake reservoir soil borrow area will be avoided as a staging area, borrow site, or by compacting activities.
<b>Revegetation and Reclamation</b>
22. Two historical borrow areas will be further reclaimed. Revegetation will be required on all construction-disturbed ground to forestall weedy invasion and to promote natural rehabilitation by local native plant sources. All revegetation activities will require the use of genetically local native plant material to the extent possible. These activities include construction sites associated with dam maintenance or repair, use of borrow areas, etc. (As directed by the Selway-Bitterroot Wilderness Vegetation Management- Forest Plan Amendment 12).
23. All ground disturbing activities occurring outside the high water mark (such as at the campsite) will be reclaimed to a natural appearance using genetically local seed sources, if necessary

Measure
24. CCID will submit a revegetation plan to the Forest Service for review, to ensure consistency with Wilderness values and direction provided for in the Selway-Bitterroot Wilderness Vegetation Management Forest Plan Amendment 12). Goals for Revegetation are provided in Chapter 2. Revegetation recommendations can be found in the Revegetation Plan in the Project File
25. All equipment used in repair or construction activities will be cleaned prior to use in the project area. All mud, dirt, and plant parts will be removed from all equipment before moving to the project area. Cleaning must occur off National Forest Lands.
26. All borrow areas will be inspected prior to use or material transport. Sites occupied by noxious weed species will not be used.
27. If straw bales or straw wattles are used in reclamation activities, they must be certified noxious weed free or noxious weed-seed free by the State of Montana.
<b>Permits and Plans</b>
33. CCID will provide plans and specifications for the work to be done at the dams
34. CCID would be responsible for obtaining the required state or federal permits. This would include: State of Montana, Department of Natural Resources 310 permit and Army Corps of Engineers 404 permit. A 318 authorization may be required from the Department of Environmental Quality
35. Air Operations, Safety, Camp Management, Materials Handling and Spill Plan, Sediment Monitoring, Communications, Reclamation and Revegetation Plans will be required as a condition for the construction work and will be developed by CCID prior to construction and approved by the Forest Service.
36. A contingency plan and response guide for spill emergencies, including onsite and during transport shall be submitted and approved by the Forest Service prior to onsite fuel storage.

The following items are Forest Service (FS) Responsibility:

Table 3 -Mitigation Measures (FS)

Measure
37. A Forest Service wilderness ranger will discuss resource protection standards with workers.
38. Wilderness visitor safety will be insured by temporary closures during work and helicopter operations.
39. Where cultural resources or human remains are encountered during project implementation, the Forest has the authority to modify or halt project activities.
40. Prehistoric site 24RA541, in the Canyon Lake Basin, will be evaluated to have its eligibility status formally determined during the summer of 2003.
41. Forest Service Botanist will assist with seed collection and transplanting of vegetation.
42. The Forest Service, prior to commencement of work, will approve all specifications and plans prepared by CCID.
43. The Forest Service engineer is responsible to approve any work from a technical standpoint and assure that the work meets dam safety laws and regulations.

## **Environmental Monitoring**

### **Monitoring and Inspection that is CCID's Responsibility:**

CCID will provide a qualified engineer for site monitoring and quality control of work.

CCID will develop and implement a sediment monitoring plan and an erosion control plan, in conjunction with the "water and fisheries" terms and conditions above and the 310 and 404 permits, to ensure that environmental protection and mitigation measures are effective. This will include items such as checking sediment traps to see that they are functioning and cleaning them out as needed.

Follow-up inspections of the dam after the first filling of water will be required in order to monitor the effectiveness of the repair work in meeting safety and engineering standards.

### **Monitoring that is Forest Service Responsibility:**

A Forest Service engineer will periodically monitor the work performed at the dams. On-site routine monitoring by engineering personnel will ensure engineering standards are being met. An engineer will monitor the rock borrow area to ensure these areas are confined to the least amount of surface area.

A Forest Service wilderness ranger will provide additional on-site monitoring during project work to ensure wilderness and resource protection standards are met at dam sites and within the access corridor. The wilderness ranger will provide feedback to ensure access and project work meet mitigation and protection standards.

## **X. RATIONALE FOR THE DECISION**

My decision is based on how well the alternatives analyzed in the EIS address the purpose and need of the project, and consideration of issues that were raised during the scoping process and the comment period on the EIS. I considered Forest Plan and Record of Decision standards and guidance for the project area and laws governing access to and safe operations of these private facilities. I also took into account competing interests and values of the public.

### **A. Meeting the Purpose and Need**

The purpose and need for the project stems from Canyon Creek Irrigation District's existing rights and obligations to operate Canyon and Wyant Dams and to maintain them consistent with federal dam safety standards. It is also built on other pertinent laws and regulations which govern CCID's use of their easements and the protection of National Forest System lands.

I believe Alternative 2 provides CCID with reasonable access for their proposed work on the dams, while also providing the most effective and reasonable combination of protections, both long and short term, for the National Forest.

Alternative 1, the "no action" alternative, does not authorize adequate access for CCID to complete their necessary work at the dams. The Forest Service is required by both the Wilderness Act and the Alaska National Interest Lands Conservation Act (ANILCA) to authorize access to valid occupancies such as these easements held by the CCID. Therefore, the authorization of adequate access to CCID for the valid use of its easements is non-discretionary. I can not choose Alternative 1.

I believe Alternative 3 could provide reasonable access for most of CCID's proposed work, with minor modification to allow CCID immediate helicopter access for the most urgent work until the trails could be built and reconstructed. I did not choose Alternative 3 because, despite all reasonable mitigation, it would also include potential long term impacts to the National Forest that I believe are avoidable and unnecessary at this time.

The improvements Alternative 3 proposes to the trail system in Canyon Creek would likely have long term adverse effects on National Forest and wilderness values that can be avoided by choosing Alternative 2<sup>9</sup>. The indirect effects of improving trail access under Alternative 3 would likely add increased long term stress to the lake basin's problem area status<sup>10</sup>, and still would not eliminate the need for helicopter access during CCID's proposed work<sup>11</sup>.

Both Alternatives 2 and 3 prescribe similar conditions on CCID's access and activities to protect the National Forest<sup>12</sup>. Alternative 3 included several additional conditions necessary to partially mitigate the additional effects of trail improvement<sup>13</sup>. I believe the terms, conditions, mitigation, and monitoring proposed in both alternatives are comprehensive, reasonable, and fully address the purpose of the project. Therefore, these weren't important factors in distinguishing between these two alternatives.

<sup>9</sup> FEIS pages 3-15 to 3-18, 3-49, 3-54

<sup>10</sup> FEIS pages 3-15 to 3-18

<sup>11</sup> FEIS pages 2-5, 3-11, 3-15

<sup>12</sup> ROD page 9 and FEIS pages 2-7 to 2-11

<sup>13</sup> ROD page 9



## B. Consideration of the Issues

The two key issues, "access" and "wilderness character," capture the major concerns raised by the public and the primary uses I had to consider and balance in reaching this decision. These issues led me to consider a number of less mechanized alternatives, and to develop and evaluate Alternative 3 in detail<sup>14</sup>.

As illustrated in the FEIS, I have little or no discretion over much of this decision. CCID's right to reasonable and adequate access and use is inherent in their easement and provided for by both the Wilderness Act and the Alaska National Interest Lands Conservation Act.

Additionally, the type, mode, and route of access are largely constrained by the strict engineering and safety standards and contingencies necessary in rehabilitating these two rapidly deteriorating, century old, high hazard dams. For much of the material and equipment needed to perform and support CCID's work, helicopters are the only reasonable means of access<sup>15</sup>.

My discretion lies primarily in determining whether the Canyon Creek trail should be reconstructed, and a new trail constructed to Wyant Lake, so that a portion of the supplies, materials, and equipment necessary to CCID's operations can be transported safely in a non-mechanized manner. That is the primary difference between Alternative 2 and Alternative 3.

I understand that motorized and helicopter use in wilderness areas is undesirable and contrary to wilderness values. However, improving trail access in Canyon Creek (Alternative 3) would have long lasting impacts on the area<sup>16</sup>. I can avoid these impacts by authorizing CCID short term helicopter access.

I believe the ephemeral adverse effects helicopters will have on wilderness values<sup>17</sup> are preferable to the long term impacts of trail improvement. This is especially true in this case, because the trail improvement in Alternative 3 would only reduce, not eliminate, the number and effects of helicopter use in this area<sup>18</sup>. Therefore I believe Alternative 2 will have the least-lasting impact on the wilderness resource and, at the same time, will reasonably serve CCID's need to rehabilitate these two dams.

<sup>14</sup> ROD page 7 and FEIS page 2-12 to 2-14

<sup>15</sup> ROD page 7, FEIS page 2-12, FEIS Appendix F, FEIS Appendix A, PF 3.7.

<sup>16</sup> FEIS pages 3-15 to 3-18, 3-49, 3-54

<sup>17</sup> FEIS pages 3-11 and 3-12.

<sup>18</sup> FEIS pages 3-11, 3-15

## **XI. FINDINGS REQUIRED BY LAWS, REGULATIONS, AND POLICIES**

I have determined that my decision is consistent with the laws, regulations, and agency policies related to this project. This section summarizes findings required by major environmental laws.

### **A. Environmentally Preferred Alternative**

For the reasons previously noted, I believe Alternative 2 is the environmentally preferred alternative.

### **B. Consistency with the Forest Plan**

The Bitterroot Forest Plan establishes management direction for the Bitterroot National Forest. This direction is described in forest-wide and management area standards. Designing and implementing projects consistent with this direction is the means to move the Forest towards the desired future condition as described in Chapter II of the Forest Plan. Management area and forest-wide direction established sideboards for the development of alternatives to the proposed action while responding to public issues. After reviewing the EIS, I find that this decision is consistent with the Forest Plan standards, goals, and objectives as amended.

### **C. Clean Water Act and Montana State Water Quality Standards**

Upon review of the Canyon Lake Dam and Wyant Lake Dam Project FEIS, I find that activities associated with the selected alternative will comply with state water quality standards, with application of the terms, conditions, mitigation, and monitoring as prescribed. The Selected alternative will protect beneficial uses.

### **D. Clean Air Act**

Upon review of the EIS (Project File K-30), I find that activities to be implemented in the Selected Alternative will be coordinated to meet the requirements of the State Implementation Plans, Smoke Management Plan, and federal air quality requirements. National Ambient Air Quality Standards for criteria pollutants will not be exceeded, and class I air quality related values, visibility and lake water chemistry will not be impaired.

### **E. National Historic Preservation Act, American Indian Religious Freedom Act, and Native American Graves Protection and Repatriation Act**

No cultural resources are expected to be affected by this action. As described, the selected alternative involves no activities that would affect cultural or prehistoric sites in the Canyon Lake Basin. No additional cultural resource work is needed regarding Canyon Lake Dam, which has been determined 'Not Eligible' for the National Register of Historic Places. Rehabilitation or breaching of the Canyon Lake Dam will not affect a significant historic property. The Montana State Historic Preservation Officer determined Wyant Lake Dam (24RA0549) 'Eligible' for the National Register of Historic Places on February 3, 2003. On the same date, Montana SHPO concurred that the proposed breaching via deepening of the existing spillway (previously enlarged in 1971) and the opening of the outlet gate would constitute No Adverse Effect to the Wyant Dam historic property.

This project is in compliance with the Region 1 programmatic agreement (1995) with the State Historic Preservation Office and the Advisory Council on Historic Preservation.

## **F. Government-to-Government Relations**

The Forest Service consulted the Confederated Salish and Kootenai Tribes during the analysis process. The intent of this consultation was to remain informed about Tribal concerns regarding the American Indian Religious Freedom Act (AIRFA) and other tribal issues. In addition, the Salish and Kootenai Tribes reserved rights under the Hellgate Treaty of 1855. These rights include the "right of taking fish at all usual and accustomed places, in common with citizens of the Territory, and of erecting temporary buildings for curing; together with the privilege of hunting, gathering roots and berries, and pasturing their horses and cattle upon open and unclaimed land." The federal government has trust responsibilities to Tribes under a government-to-government relationship to insure that the Tribes reserved rights are protected. Consultation with the tribes during project planning helps insure that these trust responsibilities are met. Tribal consultation has been completed regarding this project, with no cultural concerns identified other than the need to complete the survey of the area surrounding Wyant Lake.

## **G. The Endangered Species Act (16 USC 1531 et. seq.)**

Upon review of the wildlife section in Chapter 3 of the EIS and the biological assessments, the project will have "no effect" on grizzly bears or bald eagles and is "not likely to jeopardize" gray wolves. These determinations do not require concurrence from the U.S. Fish and Wildlife Service.

A Biological Assessment of effects related to Lynx determined that the project "may effect, not likely to adversely effect" the lynx (project record exhibit K-118). The U.S. Fish and Wildlife Service, in its biological opinion, determined that the project is not likely to jeopardize the continued existence of the Canada Lynx (project record exhibit K-119).

A Biological Assessment of effects related to bull trout determined that the project "may effect, not likely to adversely effect" the bull trout (project record exhibit K-105). The U.S. Fish and Wildlife Service has concurred with this determination (project record exhibit I-44).

Upon review of the Canyon Lake Dam and Wyant Lake Dam Project EIS, the biological assessments, and the biological evaluations, I find that the selected alternative complies with this Act.

## **H. Environmental Justice**

The Selected Alternative was assessed to determine whether it would disproportionately impact minority or low-income populations, in accordance with Executive Order 12898. No impacts to minority or low-income populations were identified during scoping or effects assessment (project file K-120).

Compliance with other laws, regulations, and policies<sup>19</sup> are discussed in various sections of the EIS, the Project Record, and the Forest Plan.

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<sup>19</sup> Examples include applicable dam safety laws, regulations and executive orders, the Wilderness Act, ANILCA, etc.

## **XII. APPEAL PROVISIONS AND IMPLEMENTATION**

### **A. Availability of the Project Record**

Copies of the Canyon Lake Dam and Wyant Lake Dam FEIS are available for review at the Forest Supervisor's office in Hamilton, the Darby Ranger Station in Darby, and the Stevensville Ranger Station in Stevensville, Montana. The FEIS and this ROD will also be available on the internet for a limited time at <http://www.fs.fed.us/r1/bitterroot/planning/decisiondocs/decisiondocs.html>

The supporting Project Record, which includes the internal scoping, public involvement, and specialist reports, is available for review at the Stevensville Ranger District Office.

### **B. Administrative Appeals**

This decision is subject to appeal pursuant to 36 CFR 215.7 (dated 11/4/1993). As stated in 36 CFR 215.11, an appeal may be filed by any person or non-Federal organization. A written Notice of Appeal must be submitted within 45 days after the date that notice of this decision is published in the *Ravalli Republic*, Hamilton, Montana.

Appeals should be sent to:

USDA, Forest Service, Northern Region  
ATTN: Appeals Deciding Officer  
PO Box 7669  
Missoula, MT 59807

Appeals must meet content requirements of 36 CFR 215.14. Detailed records of the environmental analysis are available for public review at the Stevensville Ranger District, 88 Main Street, Stevensville, MT 59870.

### **C. Implementation**

The Chief of the Forest Service has determined that an emergency exists pursuant to 36 CFR § 215.10(d) (1993). He has therefore approved an exemption from stay during appeal, only for the parts of this decision associated with CCID's engineered partial breach of the Canyon Lake Dam during the 2003 field season. This work may begin immediately after legal notice of this decision appears in the *Ravalli Republic*, Hamilton, Montana.

If no appeal is received, implementation of the remainder of this decision may occur on, but not before, five business days from the close of the appeal filing period.

If an appeal is received, implementation of the remaining portion of this decision may not occur for 15 days following the date of appeal disposition.

For further information on this decision, contact Betsy Ballard, Stevensville Ranger Station, Stevensville, Montana at (406)-777-5461.



**DAVID T. BULL**  
Forest Supervisor